

TOWN OF BEAUX ARTS VILLAGE

ORDINANCE NO. 349

AN ORDINANCE OF THE TOWN OF BEAUX ARTS VILLAGE ADOPTING THE TOWN'S LAND DEVELOPMENT REGULATIONS PURSUANT TO THE REQUIREMENTS OF THE 1990 GROWTH MANAGEMENT ACT; ESTABLISHING THE STANDARDS FOR AND REGULATING THE LOCATION, USE AND SIZE OF BUILDINGS AND STRUCTURES, AND THE USE OF LAND; REGULATING THE USE AND OCCUPANCY OF HOUSE TRAILERS AND SIMILAR VEHICLES OR STRUCTURES; REGULATING COMMERCIAL ACTIVITIES; CLASSIFYING THE REAL PROPERTY OF THE WESTERN ACADEMY OF BEAUX ARTS LOCATED IN THE TOWN OF BEAUX ARTS VILLAGE AS "OPEN SPACE LAND"; SPECIFYING CONDITIONS AND PERMIT PROCEDURES; PERMITTING ADVERTISING; ALLOWING FOR A ROOMER; ESTABLISHING STANDARDS FOR AND REGULATING ACCESSORY BUILDINGS AND LAND USES; REGULATING AND PROVIDING FOR ADMINISTRATION AND ENFORCEMENT AND PRESCRIBING PENALTIES FOR VIOLATIONS OF THE ORDINANCE; AND REPEALING ZONING CODE ORDINANCE NOS. 61, 195, 204, 217, 228, 244, 250, 251, 257, 266, 289, 313, AND 333.

WHEREAS, the Council believes it is in the best interests of the Town to maintain all zoning regulations in a single ordinance; and

WHEREAS, the Council was asked to consider revising the Town's Zoning Code to allow some roof eaves and chimneys to intrude into the setback and to clarify that the gross floor area of garages located below grade should be calculated in the same manner as basement living space; and

WHEREAS, the Council referred the questions to the Planning Commission for further review; and

WHEREAS, the Planning Commission has reviewed the portions of the Town's Zoning Code regulating setbacks and gross floor area, developed proposed revisions to the Code, held a public hearing on the proposed revisions, and forwarded the proposed language and their recommendations to the Council for consideration and action; and

WHEREAS, the Town Council has reviewed the recommended revisions to the current zoning ordinance and the Planning Commission's recommendations at a public hearing;
NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BEAUX ARTS VILLAGE, WASHINGTON, AS FOLLOWS:

Section 1. Title, Purpose, and Interpretation.

A. **Title.** This ordinance shall be known as the Zoning Code Ordinance of the Town of Beaux Arts Village, Washington.

B. **Purpose and Intent.** The general purpose and intent of this ordinance is to protect and promote public health, safety, and general welfare and to promote the beauty and tranquility of the residential characteristics of the Town through furtherance of the original concept as established in 1908 and the Comprehensive Plan, to provide for the physical development of the Town by regulating and establishing standards for the location, size, configuration and use of buildings, structures, and land. The provisions of the Ordinance are designed to lessen traffic congestion and accidents, to secure safety from fire, to provide adequate light and air, to prevent overcrowding of land, to promote coordinated development of unbuilt areas, to conserve and restore natural beauty and other resources, to facilitate the adequate provision of transportation, water, and sewage, and for other public uses and requirements.

C. **Interpretation.** In the interpretation and application of this ordinance, its provisions shall be construed to be the minimum requirements, which are adopted for the promotion of the public health, safety, and general welfare. Uses permitted are specifically set forth, and the ordinance shall be construed to prohibit uses not expressly permitted. Any use listed in this ordinance shall not be construed to include other uses.

Section 2. Definitions.

Addition: any extension or increase in floor area or height of a building or structure.

Alter or Alteration: any change to an existing structure.

Antenna: the largest component of a satellite receiving system. It is also referred to as “dish”.

Appurtenant or Accessory: a subordinate use, located on the same lot with the principal use that is related to and supports the use of the primary residential building.

Basement: any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

Board of Adjustment: a five-member board that acts as the Town Building Official in the granting or denying of applications for building permits and requests for variances; also referred to as the Board.

Building: any structure having a roof supported by columns and/or walls for the housing or enclosure of persons, animals or chattels. When any portion of a building is completely

separated from every other portion thereof by a division wall without openings, then each such portion shall be deemed to be a separate building.

Building Lot: a fractional part of subdivided lands having fixed boundaries and being of sufficient area and dimension to meet minimum zoning requirements of the Town.

Building Official: the Board of Adjustment, when acting in the granting or denying of applications for building permits and requests for variance. Building Official may also apply to the contract agent or firm employed by the Town to provide building-department services when said contract agent or firm is performing the duties of the Building Official as set forth in the Uniform Building Code, excluding the issuance of building permits and the granting of variances.

Council: the Town Council of the Town of Beaux Arts Village, Washington.

Deck, Patio, Platform, Porch, Slab Structure, or Veranda: a projection from a wall or building that is designed, established, and/or installed to provide for entrance or exit, outdoor living, cooking, and/or recreation, some sides of which are open and which may or may not have a permanent overhead covering; or a surfaced area of the ground beyond a building that is designed, established, and/or installed to provide for outdoor living, cooking, or recreation, some sides of which are open and which may or may not have a permanent overhead covering. Such projections shall be considered to be appurtenant buildings or appurtenant devices and shall be subject to setback requirements.

Driveway: the egress and ingress between the paved roadway and the parking facilities on a property (e.g. garages, carports, and parking pads), including both the private property and Town right-of-way portion. For purposes of this ordinance, the driveway width is defined as the width of the parking facilities.

Dwelling House - Single Family: a structure consisting of one or more habitable rooms that are occupied or that are intended or designed to be occupied by only one family with facilities for living, sleeping, cooking, eating, and sanitation.

Existing Grade: the surface level at the perimeter of any existing building prior to any grading or alteration of the ground surface; or if undeveloped, the surface level at any point on a lot prior to any grading or alteration.

Family: one or more persons (but not more than six unrelated persons) living together in a single housekeeping unit. For the purposes of this definition and notwithstanding any other provision of this Code, children with familial status within the meaning of Title 42 United States Code, Section 3602 (k) and persons with handicaps within the meaning of Title 42 United States Code, Section 3602 (h) will not be counted as unrelated persons.

Finished Grade: the grade at the perimeter of the building after completion of all grading or alteration of the ground surface for site development that conforms to approved plans.

Floor: the horizontal structural component in the interior of a building not otherwise defined as ceiling or roof and commonly used as a load-bearing surface for walking, supporting equipment and partition walls, and otherwise subject to UBC dead and live load requirements for floors.

Floor Level: the uppermost horizontal surface of a floor.

Grade (Adjacent Ground Elevation): the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

Gross Floor Area: the number of square feet of total floor bounded by the exterior faces of the building. The gross floor area of a single-family dwelling shall include:

- A. the main building, including but not limited to attached accessory structures.
- B. all garages and covered parking areas, and detached accessory buildings with a gross floor area over 120 square feet. The portion of a garage floor that is located below finished grade may be excluded from the gross floor area in the same manner as a basement.
- C. the area of any deck that is 30 inches or more above finished grade at any point.
- D. that portion of a basement as defined in the Uniform Building Code that projects above finished grade as calculated in the following example.
- E. that portion of an attic that is habitable space as defined in the Uniform Building Code (UBC).

BASEMENT FLOOR AREA CALCULATION
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The Beaux Arts Zoning Code excludes from the Gross Floor Area the portion of the basement floor area that is below finished grade. The portion of the basement that will be excluded is calculated as shown here.

Portion of Excluded Basement Floor Area

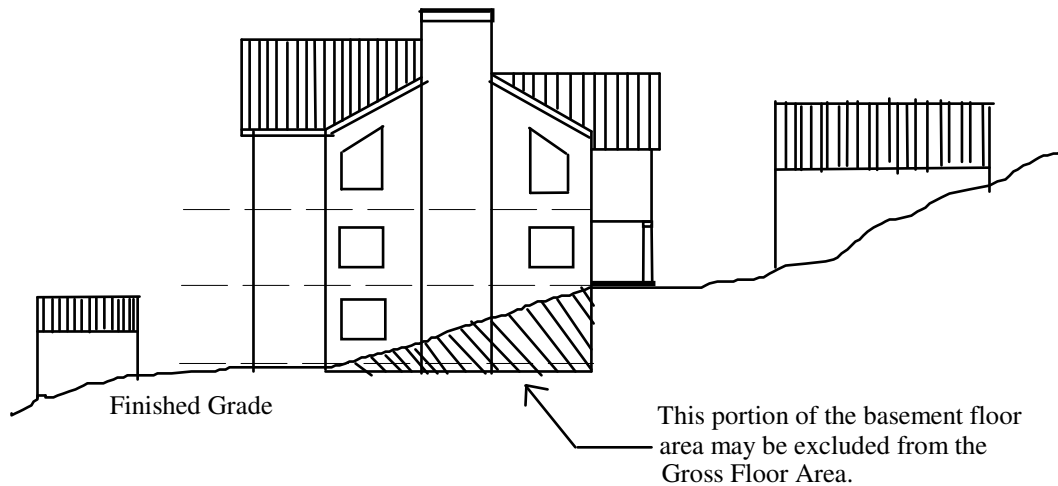
$$= \text{Total Basement Area} \times \frac{\Sigma(\text{Wall Segment Coverage} \times \text{Wall Segment Length})}{\text{Total of all Wall Segment Lengths}}$$

Where the terms used in the equation are defined as follows:

Total Basement Area = the total amount of all basement floor area.

Wall Segment Coverage = the portion of an exterior wall below finished grade. It is expressed as a percentage. (Refer to example)

Wall Segment Length = is the horizontal length of each exterior wall in feet.



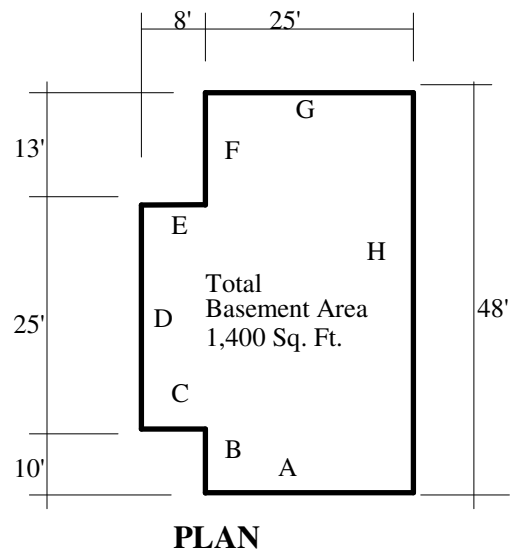
EXAMPLE OF BASEMENT FLOOR AREA CALCULATION

This example illustrates how a portion of the basement floor area may be excluded from the Gross Floor Area. In order to complete the calculation, the following information is needed:

- A topographic map of the existing grades.
- Building plans showing dimensions of all exterior wall segments and floor area.
- Building elevations showing the location of finished grades in relation to basement level.

Step One.

Determine the number and lengths of the Wall Segments.

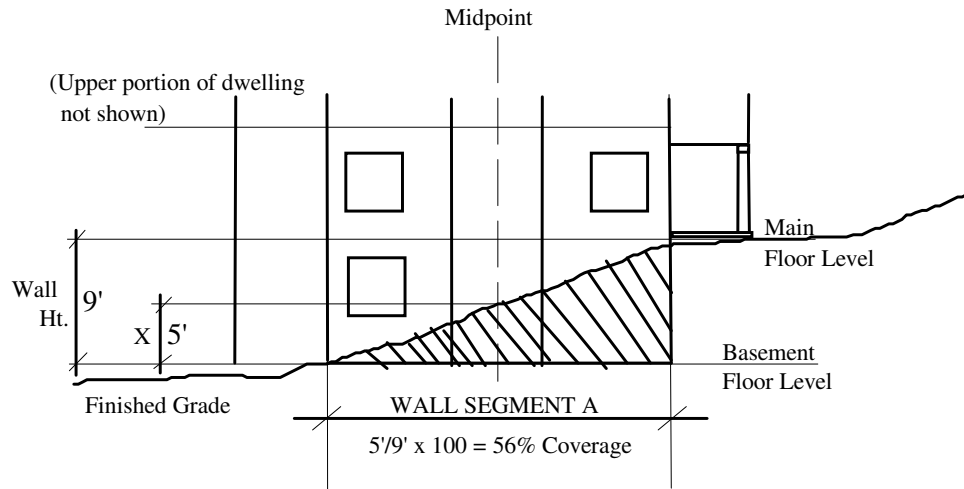


Step Two.

Determine the Wall Segment Coverage (as a %) for each Wall Segment.

In most cases, this will be readily apparent. For example, the Wall Segment Coverage of a downhill elevation that is entirely above finished grade will be 0%, while the Wall Segment Coverage of an uphill elevation that is entirely below

finished grade will be 100%. In other cases where the grade contours are complex, an averaging system consisting of a line drawn between the corners of the Wall Segment, at the intersection with the finished grade, shall be used to approximate the complex contour.



Step Three.

Multiply each Wall Segment Length by the percentage of each Wall Segment coverage and add these results together. Divide the number by the sum of all Wall Segment Lengths. This calculation is most easily completed by compiling a table of the information as illustrated below and will result in the percentage of basement wall that is below finished grade.

Table of Wall Lengths and Coverage

Wall Segment	Length	Coverage	Result
A	25 ft.	56%	14 ft
B	10 ft.	0%	0 ft
C	8 ft.	0%	0 ft
D	25 ft.	0%	0 ft
E	8 ft.	0%	0 ft
F	13 ft.	0%	0 ft
G	25 ft.	60%	15 ft
H	48 ft.	100%	48 ft
TOTALS	L=162 ft.		R=77 ft

where Length (in feet) X Coverage (as a %) = Result (in ft).

Step Four.

Multiply the Total Basement Floor Area by the total percent coverage (the total result (R) divided by the total length (L), i.e. R/L) to determine the Excluded Basement Floor Area.

Portion of Excluded Basement Floor Area = (Total Basement Floor Area) x (R/L)

$$= 1,400 \text{ Sq. Ft.} \times \frac{77'}{162'}$$

$$= 1,400 \text{ Sq. Ft.} \times 47.5\%$$

$$= 1,400 \text{ Sq. Ft.} \times 0.475$$

$$= 665 \text{ Sq. Ft. of the basement excluded from the Gross Floor Area}$$

(End of Example of Basement Floor Area Calculation)

Gross Floor Area (GFAR) Garages: The portion of a garage

Gross Floor Area Ratio (GFAR): the total gross floor area divided by the total area of the building lot.

Guest: one who is received and entertained by the residents of a single-family-dwelling house for a visit, who occupies a room for living and sleeping without payment or other remuneration.

Height of Building or Structure: the greatest distance measured vertically from any point on the structure to the existing grade. It does not include chimneys or conventional radio or television receiving antennas.

Junker: any vehicle not currently licensed to be driven on public roads or not currently capable of being legally driven.

Line of sight: the view along a Town right-of-way from any part of a paved roadway to any other part of a paved roadway.

Lot: a fractional part of subdivided lands having fixed boundaries. The term shall include all land held as a unit, regardless of whether described on plats or in documents of title as one or several tracts, blocks, lots, parcels or portions thereof. Land is held as a unit if contiguous and beneficially owned or controlled by one person or by a group of affiliated persons (such as a marital community, or joint venture, or partnership or a corporation and/or one or more of its subsidiaries, officers, directors or stockholders, etc.) acting together with respect to the land. This definition also applies to tract or parcel.

Lot Coverage: the total horizontal area covered by buildings and structures, including pools, concrete slabs, black topping, or other impervious surfaces; and also including that area measured to the outermost parts of any structure, including, but not restricted to porches, overhang portions of the roof, carports, garages and cantilevered portions. Free-draining spaced-plank decks are exempt from the determination of lot coverage.

Maximum Allowable Structure Size: the maximum size allowable for structures on a given building lot, including the garage or carport and all accessory buildings.

Non-conforming building: an existing structure that does not comply with the current provisions of the Town Zoning Code.

Non-conforming Lot: an established but non-conforming lot is a fractional part of subdivided lands that at the time of the adoption of Ordinance No. 21 (6/23/59) was occupied by a single-family dwelling house but is of insufficient area and dimension to meet the minimum zoning requirements of the Town.

Passenger vehicle: any of the following vehicles: automobiles, 7-9 passenger vans, and small pickup trucks.

Retaining walls, rockeries: a wall of masonry, wood, rock, metal, or other similar or combination of similar materials that bears against earth or other fill material for the purpose of resisting lateral or other forces in contact with the wall and/or the prevention of erosion.

Reconstruction: any construction in which the enclosed living space added to the existing structure comprises more than 20% of the existing structure and/or the value of the construction is more than the greater of the assessed value of the existing improvements or \$250,000.

Recreational, commercial, or utility vehicle: any of, but not limited to, the following: boats, campers, boat trailers, travel trailers, pickup campers, coaches (designed to be mounted on automotive vehicles), motorized dwellings, recreational vehicles, tent trailers, and cases or boxes used for transporting recreational equipment, utility trailers, trucks, junkers, machinery, passenger vehicles under repair, commercial vehicles, camper tops or shells.

Remodel: any construction in which the enclosed living space added to the existing structure comprises 20% or less of the existing structure and the value of the construction is less than or equal to the greater of the assessed value of existing improvements or \$250,000.

Roomer: one who lives in a room or rooms in another's residence for payment or other remuneration.

Satellite Receiving Systems: a system for receiving satellite signals, e.g. television programming, and usually composed of three parts: the antenna, a low-noise amplifier, and a receiver. The antenna and low-noise amplifier are located outdoors, and the receiver is indoors.

Screen: fencing, landscaping, or structure that obscures the view of an object from the right-of-way and/or adjoining property.

Setback: a term establishing a minimum distance from a lot line to the outermost projection of any structure, including, but not restricted to porches, overhanging portions of the roof, carports, garages, and cantilevered portions. The setbacks establish an area at the edges of a lot upon which building, appurtenant devices and structures may not be placed, and conversely, the area enclosed by the setback lines is the only area upon which such things may be located.

Setback, Front: the space abutting any developed street, the width of which is wholly within the Town, and extending the full width of the lot.

Setback, Rear: the space abutting a property line, access easement or private road and opposite to the front setback or as nearly so as the lot shape permits, and extending the full width of the lot. If more than one rear setback is described, that setback which is farthest from the front setback shall be the required rear setback. All others shall be treated as side setbacks. If more than one front setback exists, the rear setback shall be opposite to the setback from which the lot is addressed.

Setback, Side: the space abutting a property line, access easement or private road and generally between the required front and rear setback. Any setback not defined as a front or rear setback shall be a side setback.

Story: that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six (6) feet above finished grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such usable or unused under-floor space shall be considered as a story.

Story, First: the lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below finished grade, as defined herein, for more that 50 percent of the total perimeter, or not more than eight (8) feet below finished grade, as defined herein, at any point.

Structure: that which is erected, built or constructed, including an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, and including the construction or installation of any impervious slabs or surfaces.

Town: the Town of Beaux Arts Village, Washington.

Other Definitions When any word used in the ordinance is not specifically defined herein, its definition shall be its ordinarily accepted meaning within the context used. *Webster's*

Third New International Dictionary of the English Language Unabridged, copyright 1986, shall be considered as providing ordinarily accepted meanings.

Section 3. Comprehensive Plan Consistency.

A. The Council of the Town of Beaux Arts Village hereby finds that this ordinance is consistent with the Town's Comprehensive Plan.

B. State Environmental Policy Act. This ordinance does not have a probable significant adverse impact on the environment. An environmental impact statement is not required. The Town adopts the Determination of Non-significance and Environmental Checklists associated with the ordinance specified in Subsection A above.

Section 4. Use and Occupancy of Real Property.

A. No structure may be erected or constructed in the Town except on a building lot meeting the requirements of this ordinance.

B. The only structures permitted in the Town are single-family dwelling houses and structures accessory thereto. No more than one single-family dwelling house for each building lot may be constructed or occupied.

C. No sleeping or kitchen facilities shall be allowed in any appurtenant buildings or accessory structures.

D. No structures detached from the dwelling house shall be occupied as the principal living or sleeping quarters of any person.

E. The only exception to Sections 4A and 4B shall be the structures deemed necessary for the maintenance and operation of the Town's water system or for other public purposes as authorized by the Council.

F. No dwelling house shall be erected or constructed in the Town upon any lot occupied at the time of construction by another dwelling house unless the original dwelling house shall be totally incorporated and integrated into the new dwelling house in such a manner as to create one single-family dwelling house.

G. House trailers, campers, caravans and all other vehicles or structures adapted to serve as movable or portable living quarters may not be used as living quarters within the Town of Beaux Arts Village, upon public or private property, except in the following cases:

1. temporary guests of a resident of the Town may use such living quarters upon the premises and with the consent of such resident for a period not exceeding 14 consecutive days.

2. a member of the household of a resident of the Town may use such living quarters upon the premises of such resident for the period stated in (1) above.

Section 5. Size and Configuration of Building Lots.

A. No dwelling house shall be erected in the Town upon a lot having a total horizontal area within the exterior lines of said parcel of less than 10,000 square feet unless said parcel is a non-conforming lot.

B. New building lots established by subdivision shall be created by dividing an existing lot by a single straight line drawn at a right angle to an existing property line. Variances from this rule may be permitted by the Council, which shall consider, but not be limited to, the following factors: compliance with the Comprehensive Plan, Ordinance No. 242, pre-existing property lines, Town streets, natural topographical features, natural obstructions, and impact upon adjoining or surrounding lots and buildings.

C. Newly created building lots shall have a total horizontal area within the exterior lines of said parcel of at least 10,000 square feet.

D. No person owning or having any interest in real property lying within the confines of the Town, whether the same be a legal or equitable interest therein, shall sell, transfer, convey, contract to sell, lease, or in any other manner whatsoever dispose of any part of a single parcel of real property under any one of the following conditions:

1. If the remaining portion of said lot or parcel shall have less than 10,000 square feet of horizontal area lying within the exterior lines of said remaining portion; or
2. If the part of said lot or parcel being sold, transferred, conveyed, leased or otherwise disposed of shall have a dwelling house located thereon and shall have less than 10,000 square feet of horizontal area lying within the exterior lines of said part; or
3. If the required setback, gross-floor-area-ratio (GFAR), and lot-coverage restrictions or any other requirements as set forth in Town ordinances shall be violated as a result of such sale, transfer, conveyance, contract, lease, or other method of disposition of a part of a single parcel of real property.

Section 6. Commercial Activities.

A. No commercial activity shall be carried on within the limits of the Town of Beaux Arts Village; provided, however, that the Council may issue permits, which may be revoked at any time, with or without cause, for the conduct of commercial activities within the Town, if the applicant has prepared an application which states that the applicant will comply with the following conditions:

1. The proposed commercial activity shall be carried on wholly within the confines of the applicant's home or other structure appurtenant thereto, and it shall utilize no more than twenty-five percent (25%) of the gross-floor area of said structures.
2. No person who is not a member of the applicant's immediate family and who is not a resident in the applicant's home may be employed.
3. There shall be no exterior display, no exterior alteration of the property, no exterior signs, no exterior storage of materials and no other exterior indication of commercial activity or variation from the residential character of the premises.
4. Structural alterations to the interior or exterior of the building that change the residential character thereof shall not be permitted.
5. The use of electrical or mechanical equipment that would change the fire rating of the structure or create visible or audible interference in radio or television receivers or cause fluctuations in line voltage outside the dwelling unit is prohibited. There shall be no bulk storage of flammable, explosive, or toxic materials.
6. There shall be no noise, vibration, smoke, dust, odors, heat, or glare produced as a result of the commercial activity that would exceed that normally produced at a single-family residence.
7. There shall be no demand for parking beyond that which is normal to the neighborhood and no unusual or excessive traffic to and from the premises. In no case shall the commercial activity cause excessive on-street parking.
8. The proposed commercial activity shall not involve the use of commercial vehicles.
9. The proposed commercial activity shall not disturb the tranquility of the neighborhood in any way.

B. Applications for commercial-activity permits shall be submitted to the Town Clerk for review at least fifteen (15) days prior to the next scheduled Council meeting if the applicant wishes it to be considered at that meeting. The Council may grant a commercial-activity permit if they find that the applicant will comply with the above stated conditions. If required by the Council, the applicant shall provide all relevant information concerning the above stated conditions to the Council. This shall not apply to the activities of utility companies or to the delivery of goods to or performance of services for residents of the Town.

C. The Council may revoke a commercial-activity permit at any time that it determines that the permit holder is not complying with any condition of the permit.

D. Rooms may be rented to not more than one person other than the family occupying a single-family dwelling. The family must comply with health and building-code requirements. The owners of the rooms to be rented shall provide additional off-street parking for all vehicles owned or used by the roomer.

E. Advertising shall be permitted within the Town on private property only. Signs shall be of sturdy construction and shall be no larger than three (3) feet by three (3) feet in size. Official notices required or permitted by the Council may be posted on Town rights-of-way. All signs shall be removed after their reason for being has expired.

Section 7. Western Academy of Beaux Arts Open Space Land

A. The Town hereby finds that preservation of the land involved in its present use will conserve and enhance natural and scenic resources in the town, county, and state; will help protect the water supply of the town; will promote conservation of soils, shorelands, beaches, and Lake Washington; will enhance the value to the public of neighboring and abutting wildlife sanctuaries, and other open space; and will greatly enhance recreation opportunities;

B. The Council hereby classifies and zones all the land owned by the Western Academy of Beaux Arts being the Westerly portion (westerly approximately one hundred feet or more) of the Town of Beaux Arts Village abutting upon the eastern shore of Lake Washington together with those corridors for access to such land, as "Open Space Land" set aside for preservation as recreational land in accordance with R.C.W. Ch. 84.34.

Section 8. Location, Size and Height of Buildings and Structures, Appurtenant Buildings, Structures and Devices; Lot Coverage; and Gross Floor Area.

A. All buildings and structures, including appurtenant devices and structures, shall be set back at least twenty (20) feet from the front property line.

B. All buildings and structures, including appurtenant devices and structures, shall be set back at least ten (10) feet from the side property line.

C. All buildings and structures, including appurtenant devices and structures, shall be set back at least twenty-five (25) feet from the rear property line.

D. The maximum height of any building or structure shall not exceed thirty (30) feet above existing grade.

1. The finished grade around the perimeter of the building shall not be altered to create a perimeter height exceeding thirty (30) feet above existing grade.
2. The perimeter face of any building or structure shall not exceed thirty (30) feet.

E. The lot-coverage area shall not exceed thirty-five (35%) percent of the total building-lot area.

F. The gross-floor-area ratio (GFAR) shall not exceed thirty-five percent (35%) of the total building lot.

G. The maximum allowable structure size, including garage or carport and accessory buildings, is 7,000 square feet.

H. The following structures may be allowed within setback areas: fences; retaining walls; rockeries up to thirty (30) inches tall; ornamental landscape structures up to thirty (30) inches tall, including ornamental pools of any depth provided they comply with safety regulations stipulated in Ordinance 187; garden trellis gates up to eight (8) feet tall; eaves or roof overhangs up to eighteen (18) inches in depth; one chimney up to eighteen (18) inches in depth and no wider than six (6) feet.

I. The owner of a non-conforming lot may build up to a 2,500- square-foot single-family residence, including garage or carport regardless of the size of the non-conforming lot.

J. Each lot must contain only one front setback and only one rear setback. Any other setback will be considered a side setback.

K. If a lot abuts the intersection of two Town or WABA streets, a front setback of twenty (20) feet, as prescribed in Section 8A, shall be required on the addressed street. The setback on the intersecting street shall be considered a side setback.

L. Upon application for a building permit, the Board is authorized to designate front, rear, and side setbacks in accordance with the definitions in Section 3 of this ordinance. If these definitions do not establish a front and rear setback, the Board shall establish these setbacks based upon the orientation of the lot to the surrounding lots and to any existing development pattern. All other setbacks shall be defined in relation to the established front and rear setbacks.

M. All setbacks shall be measured from the lot line to the outermost projection of any structure, including, but not limited to porches, overhanging portions of the roof, carports, garages, and cantilevered portions.

Section 9. Offstreet Parking Facilities and Driveways.

A. Dwelling houses constructed or reconstructed after the effective date of this ordinance shall include garages or carports for a minimum of two cars in conformance with Paragraph 9D. below.

B. Before adding additional square footage to an existing residence, or erecting an appurtenant structure thereto, existing dwelling houses shall provide parking spaces and/or garages or carports for a minimum of two cars, as defined in paragraph 9D below.

C. In addition to the requirements of paragraphs 9A and 9B above, additional parking spaces shall be provided for all boats, trailers and recreational vehicles that occupants regularly park or keep at any dwelling. These parking spaces shall be screened from view from the street and/or adjoining property by a fence or natural foliage. Passenger, recreational and utility vehicles must be parked in compliance with paragraphs 9E, 9F, and 9G below.

D. In order to meet the requirements of 9 A and 9 B above, the size, location, and design of garages and carports, parking spaces and driveways shall be as follows:

1. The minimum size of each newly created parking space, exclusive of aisles and driveways, shall be one hundred and eighty (180) square feet per vehicle.
2. Garages and carports shall be located on the same parcel of real property as the dwelling house and must be further located so as to comply with the setback requirements applicable to buildings and appurtenant devices as set forth in the ordinances of the Town.
3. Parking spaces shall be located on the same parcel of real property as the dwelling house and not on any portion of the Town's right-of-way. Side setback requirements must be observed.
4. Driveways installed on privately owned property within the Town may be constructed of gravel, asphalt, concrete or such other suitable driveway finishing material as may be approved by the Town Building Official and may be located adjacent to the property line provided they are used for no purpose other than ingress to and egress from a garage, carport or other parking facility.
5. Parking spaces and driveways shall not be constructed of impervious materials without a building permit.

E. It shall be unlawful for any person to stop, stand or park any passenger vehicle, recreational, commercial, or utility vehicle, boat or junker in any of the following places, except temporarily during the actual loading or unloading of passengers or when necessary to avoid a traffic conflict or in obedience to a police officer, to traffic regulations or to traffic signs or signals:

1. In front of a private driveway.
2. Within ten (10) feet of a fire hydrant.
3. On a crosswalk.

4. Within twenty (20) feet of a crosswalk.
5. Within thirty (30) feet of any traffic-control signal, stop sign or traffic-control sign located on the side of a roadway.
6. On the paved portion of 108th Avenue SE.
7. On the west side of 108th Avenue SE between SE 29th Street and SE 30th Street or within sixty (60) feet north of SE 29th Street.
8. On the paved portion of the north and south through street known and designated as:
 - a. 104th Avenue SE between the north boundary of the Town and SE 28th Street; and
 - b. SE 28th Street between 104th Avenue SE and 105th Avenue SE; and
 - c. 105th Avenue SE between SE 28th Street and SE 30th Street.
9. On any street in such a manner or under such conditions as to leave less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic.
10. On the paved turnout areas located:
 - a. on the south side of SE 29th Street just east of 106th Place SE; and
 - b. on the east side of 106th Place SE approximately one hundred (100) feet north of SE 29th Street.
11. Where line of sight is impaired.

F. Passenger vehicles that are owned by a resident shall be parked on that resident's private property. If this is not possible, these vehicles may be parked on the Town right-of-way portion of the driveway, as long as line of sight is not impaired.

G. Recreational, commercial, or utility vehicles or junkers:

1. may be parked in a carport or garage, or may be parked on private property if screened as defined in Section 2 of this ordinance; and
2. may be temporarily parked in a non-screened area for a period not to exceed a total of two weeks in a one-year period. An owner may be granted an extended period of time by the Town Marshal upon application, which shall include the signed consent of each adjoining property owner and the property owners across the street, and an explanation of the special circumstances that make the extension necessary.

H. The undeveloped, unpaved portion of the Town right-of-way may be used for guest parking, or for occasional temporary parking by residents provided the vehicle is not blocking through traffic and does not violate any provision of this ordinance.

I. No vehicle parked within the Town shall be used regularly for sleeping or housekeeping purposes.

J. Exceptions to the provisions of this section may be granted by the Council under the following conditions:

1. The resident seeking the exception shall file an application with the Town Clerk indicating:

- a. The reasons why the strict enforcement of this section would cause an undue hardship; and
 - b. An alternative parking and/or screening proposal that will not have a negative impact on the quality of the immediate neighborhood.

2. At least one week prior to the Council meeting at which such an application will be considered, the Town Clerk shall provide a copy of the application to each adjoining property owner and the property owners across the street.

3. When reviewing such an application, the Council shall take into consideration traffic congestion, safety and the impact on surrounding neighbors.

K. The Town Marshal may place a 72-hour notice on any vehicle parked in violation of this section indicating that the vehicle must be removed within the 72-hour period or it will be removed by the Town at the owner's expense.

Section 10. Fences. No fence shall be erected or constructed in the Town that exceeds a height of six (6) feet within the side or rear yards, nor a height of four (4) feet six (6) inches in the front yard, or incorporates the use of barbed wire or electrical charges, except that two (2) feet of barbed wire may be used on top of a six (6) foot or higher solid or chain link fence surrounding public-utility property.

Section 11. Satellite Receiving Systems. Permit Required. A building permit shall be required for the installation of a satellite receiving system if the antenna is larger than thirty (30) inches in diameter. All such installations shall be subject to the requirements of the Town Zoning Code and Building Code.

Section 12. Ground-Level Structures. Ground-level structures consisting of decks, patios, platforms, porches, slab structures or verandas shall be subject to the setback requirements of Section 8.

Section 13. Swimming Pools, Wading Pools, Hot Tubs, Spas, Landscape and Ornamental Pools. The construction and maintenance of swimming pools, wading pools, hot tubs, spas, landscape and ornamental pools shall be governed by the Town Swimming Pool Ordinance.

Section 14. Subdivision and Boundary Line Revisions (Adjustments). The procedure for the sale, lease, division, conveyance, or alienation of parts of real property and interests therein shall conform with the Town Subdivision Ordinance.

Section 15. Sanitary Facilities. Each dwelling house in the Town shall be equipped with modern sanitary facilities and shall be connected to the sewer system that is duly franchised to serve the Town.

Section 16. Non-conforming Uses, Buildings and Structures, and Building Lots. The following regulations shall govern the continuation and elimination of non-conforming uses, buildings and structures, and building lots.

A. Non-conforming Uses.

1. Any use that lawfully existed at the date of the adoption of this ordinance is hereby permitted to continue and to be maintained and operated in accordance with this section.
2. Any appurtenant building or structure may not be utilized for a roomer or other commercial activities, unless such use was in effect prior to the effective date of this ordinance.
3. A non-conforming use that has been discontinued for a period of one year or more shall be presumed conclusively to be abandoned and no such use shall be permitted thereafter.
4. A building or structure containing a non-conforming use shall not be enlarged or expanded unless the use is brought into conformity with the requirements of this ordinance, as amended.
5. Whenever a building or structure that contains a non-conforming use is destroyed, damaged, or deteriorated to the extent of fifty percent (50%) or more of its replacement value, as determined by the Town Building Official, any subsequent use shall be in conformity with this ordinance.

B. Non-conforming Buildings or Structures.

1. Any non-conforming building or structure that lawfully existed as of January 13, 2004 is hereby permitted to continue, to be maintained, repaired or brought into compliance with current building codes, and to be operated in accordance with this section.
2. The remodel of an existing non-conforming building or structure will be allowed without a variance:
 - a. to reduce the setback encroachment or the height of that portion of the non-conforming building or structure located within the setback, or

- b. to make changes to bring the building or structure into compliance with the Uniform Building Code, to make repairs, to change siding, or to change a window or window trim, provided that these changes do not increase the setback encroachment or the height of that portion of the non-conforming building or structure located within the setback.

Provided however, that if the existing building or structure exceeds the maximum Gross Floor Area Ratio (GFAR), no additional enclosed square footage may be added without a variance unless the building or structure, as remodeled, is in compliance with GFAR.

3. Any non-conforming building or structure that is damaged or destroyed by a fire or natural disaster may be rebuilt to its previous building footprint and envelope without obtaining a variance.
4. Any non-conforming building that is proposed for reconstruction shall comply with all applicable provisions of the Zoning Code, including parking requirements

C. Non-conforming Building Lot: Any non-conforming lot upon which a single-family residence lawfully existed at the date of the adoption of this ordinance, or any lot created under the Town Subdivision Ordinance, is hereby permitted to continue and to be maintained and operated in accordance with this ordinance.

Section 17. Variances. Variances to Sections 5, 8 and 9 of this ordinance may be permitted upon application to the Board.

A. No variance shall be approved or approved with modifications unless the Board finds that all of the following five criteria have been met:

1. The variance will not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the Town.
2. The granting of the variance will not be materially detrimental to the public welfare or injurious to other properties or improvements in the Town. It will be consistent with the Town's Comprehensive Plan.
3. The variance is necessary because of special circumstances relating to the size, shape, topography, location, surroundings, and features of the subject property.
4. The need for a variance has not arisen from actions previously taken by the applicant (owner).
5. The variance is the minimum necessary to permit the owner reasonable use of the property.

B. A variance may be approved with conditions. If no reasonable conditions can be imposed that ensure the application meets the criteria of Section 17A(1-5) of this ordinance, then the application shall be denied.

C. Fees. A non-refundable fee shall be assessed for every request for variance submitted for review by the Board. Variance fees shall be set by resolution of the Town Council and shall be paid at the time the request for variance is submitted. No action shall be taken upon the request for variance until the fee has been paid.

D. Notice of Public Hearing. Before a request for a variance is acted upon by the Board, the Board shall consider the application in an open record hearing at a public hearing.

E. Findings and Conclusions and Decision. In deciding upon the variance requested, the Board shall cause to be prepared written findings and conclusions based upon the testimony and written exhibits submitted at the open record hearing. The Board Chairman will approve by signature that the findings are the accurate and complete account of the record as approved by the majority of the Board. The Town Attorney will approve the findings as to form. The date that such findings are signed shall be the date of action on the variance request.

F. Appeals. The action of the Board may be appealed to the Council as authorized by ordinance. A fourteen- (14) day appeal period begins from the date of action on the variance request. The appeal to the Council will be a closed record hearing. A non-refundable fee shall be assessed for every appeal filed for review by the Council. Appeal fees shall be set by resolution of the Council and shall be paid at the time the request for appeal is filed with the Town Clerk.

G. Permit For Approved Variance. No permit will be issued until the Appeal Period has ended.

Section 18. Restrictions, Limitations, and Requirements. The restrictions, limitations, and requirements provided for in this ordinance are in addition to, and not in limitation of any restrictions, limitations, and/or requirements benefiting or exercisable by any person, class of persons, or corporation and derived from or through any contract, deed, or covenant pre-existing this ordinance.

Section 19. Enforcement and Penalties.

A. No person, firm, corporation or association shall cause any building or other structure to be constructed or located in any manner as will result in a violation of this ordinance, as amended. If the Town Building Official shall find any building or other structure being so constructed or so located, said official shall order the work stopped by notice in writing to persons engaged in doing such work or causing such work to be done. Such notice shall be posted on the premises and provided to the owner stating the violation(s) and/or possible corrective action; all work shall be stopped until authorization to proceed is granted by the Building Official.

B. Violation of any of the provisions of this ordinance, as amended, shall be a civil infraction and any person found to have committed such a violation shall be subject to a civil penalty in an amount not to exceed \$100.00. It shall be a separate infraction for each and every day or portion thereof during which any violation of any of the provisions of this ordinance, as amended, is committed, continued, or permitted.

C. Any building or structure hereafter set up, erected, built, moved, or maintained, or any use of property contrary to the provisions of this ordinance, as amended, shall be deemed a public nuisance. The Town shall commence action immediately to abate such nuisance, in the Superior Court or in some other court of competent jurisdiction.

Section 20. Repeal or Amendment of this Ordinance. Repeal or amendment of this ordinance requires prior review by the Town's Planning Commission, as established under RCW 35.63, as amended.

Section 21. Repealer. The following ordinances are hereby repealed:

- A. Ordinance No. 61, passed August 5, 1969
- B. Ordinance No. 195, passed May 21, 1985
- C. Ordinance No. 204, passed May 12, 1987.
- D. Ordinance No. 217, passed June 13, 1989.
- E. Ordinance No. 228, passed February 12, 1991.
- F. Ordinance No. 244, passed March 10, 1995.
- G. Ordinance No. 250, passed May 9, 1995.
- H. Ordinance No. 251, passed May 9, 1995.
- I. Ordinance No. 257, passed February 26, 1996.
- J. Ordinance No. 266, passed March 18, 1997
- K. Ordinance No. 313, passed May 14, 2002
- L. Ordinance No. 289, passed January 13, 2004
- M. Ordinance No. 333, passed June 14, 2005

Section 22. Validity. If any section, paragraph, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses, or phrases subsequently may be found by competent authority to be unconstitutional or invalid.

Section 23. Effective Date. This ordinance shall take effect five (5) days after its passage and publication.

PASSED BY THE COUNCIL OF THE TOWN OF BEAUX ARTS VILLAGE on this 13th day of February, 2007.

APPROVED BY THE MAYOR OF THE TOWN OF BEAUX ARTS VILLAGE on this
13th day of February, 2007.

Judee Wells, Mayor

ATTEST:

APPROVED AS TO FORM:

Sue Ann Spens, Clerk/Treasurer

Wayne Stewart, Town Attorney

I certify that copies of the above ordinance were posted as required by law in the Town of
Beaux Arts Village, Washington, on the ____th day of _____, ____.

Sue Ann Spens, Clerk/Treasurer